

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8208 OF 2005

Ashok K. Thube & Anr. Petitioners
V/s.
Smt.Bibijan D. Patel & Anr. Respondents

Mr.B.P. Abhale for the Petitioners.

Mr.Anilkumar Patil for Respondent No.1.

Mr.Suresh M. Sabrad for Respondent No.2.

CORAM : R.M. SAVANT, J.
DATED : 21ST MARCH, 2007.

P.C. :

1. This Petition is filed under Article 227 of the Constitution of India impugning the order dated 28.2.2002, passed by the Officer on Special Duty, Government of Maharashtra, in the Revisional proceedings adopted by the Petitioners and the order dated 10.3.1999 passed by the Additional Commissioner, Nashik Division, Nashik in R.T.S. Revision No.188 of 1998. By the said order, the order passed by the S.D.O. has been confirmed by the said authorities.

2. The Petitioners vide registered sale-deed dated 3.4.1996 claim to have purchased the suit land Gat No.180, known as "Beldara", admeasuring 1-H 20-R,

situated at village Vinchuri-Dalvi, Taluka Sinnar, District Nashik for valuable consideration of Rs.1,14,000/-. On the basis of the said sale-deed, mutation entry No.1124 came to be effected in favour of the Petitioners in the revenue record on 11.4.1996. On coming to know about the said mutation entry, Respondent No.1 herein filed R.T.S. Appeal No.103 of 1996 before the S.D.O., Sinnar against the said mutation entry. The S.D.O., Sinnar decided the matter on 4.12.1996 and set aside the said mutation entry on the ground that there was a prior Agreement for Sale dated 19.1.1996 in favour of Respondent No.1 and therefore, the mutation entry effected in favour of the Petitioners was uncalled for.

3. Aggrieved by the said order of the S.D.O., Sinnar, the Petitioners carried the matter in Appeal to the District Collector, who held in favour of the Petitioners by an order dated 31.3.1998 and reinstated the said mutation entry. Respondent No.1 aggrieved by the said order of the District Collector, filed a Revision before the Additional Commissioner. The Additional Commissioner vide his order dated 10.3.1999 confirmed the order passed by the S.D.O., Sinnar.

4. The Petitioners thereafter filed a Revision

before the State Government invoking the provisions of the Maharashtra Land Revenue Code. The said Revision came to be dismissed by the State Government on the ground that the second revision was not maintainable. In so far as the mutation entry is concerned, the orders passed by the authorities are either in favour of the Petitioners or Respondent No.1. It is significant to note that Respondent No.1 has filed R.C.S. No.254 of 1996 for specific performance of the contract against Respondent No.2. The said suit is also directed against the Petitioners who are also Defendants in the said suit.

5. It is trite that the title is not decided on the basis of the revenue entries, whereas the Petitioners are claiming on the basis of the sale deed dated 3.4.1996, the Respondent No.1 claiming on the basis of the Agreement to Sale dated 19.1.1996. Be that as it may, the rights of the parties as regards the title to the land in question will be decided in the said R.C.S. No.824 of 1996. In that view of the matter, it is therefore just and proper to direct the concerned Court to try and decide the said R.C.S. No.254 of 1996 within a period of six months from today. This would give a quietus to the whole issue as regards the rights of the Petitioners and

Respondent No.1 herein.

6. The Writ Petition is accordingly disposed of by directing the learned Civil Judge, Junior Division, Sinnar to try and dispose of the said R.C.S. No.254 of 1996 (which is now numbered as 129 of 2000) within a period of six months from the date of receipt of the writ of this Court. Needless to say that the said suit would be decided on its own merits without being affected by the observations made in this order. Rule is accordingly made absolute to the aforesaid extent.

(R.M. SAVANT, J)